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## **PUBLIC NOTICE**

**The Mayor and City Council invite you a**

### **SPECIAL CALLED MEETING**

**TUESDAY, JUNE 20, 2017**

**5:00PM**

**Approval of the 2017 Budget Resolution (May – Sept);  
Consideration of Taxation Ordinances (1<sup>st</sup> & 2<sup>nd</sup> Readings);  
and,  
Franchise Agreement Ordinances (2<sup>nd</sup> Reading)  
and related items**

**South Fulton Service Center Auditorium  
5600 Stonewall Tell Road  
College Park, GA 30349**

If you have any questions or concerns, please contact the City of South Fulton, City Hall at [www.cityofsouthfultonga.gov](http://www.cityofsouthfultonga.gov) or call 470-809-7712.

**CITY OF SOUTH FULTON, GEORGIA**  
**South Fulton Service Center Auditorium, 5600 Stonewall Tell Road**  
**Tuesday, June 20, 2017, 5:00PM**



**The Honorable William “Bill” Edwards, Mayor**  
**The Honorable Catherine F. Rowell, District 1, Mayor Pro Tem**  
**The Honorable Carmalitha Gumbs, District 2 Councilmember**  
**The Honorable Helen Z. Willis, District 3 Councilmember**  
**The Honorable Naeema Gilyard, District 4 Councilmember**  
**The Honorable Rosie Jackson, District 5 Councilmember**  
**The Honorable khalid kamau, District 6 Councilmember**  
**The Honorable Mark Baker, District 7 Councilmember**

**SPECIAL CALL MEETING – AGENDA**

**5:00PM**

1. Resolution to adopt the Fiscal Year 2017 Final Budget for each fund of the City, appropriating the amounts shown in each fund as expenditures/expenses, adopting the several items of revenue anticipations, and prohibiting expenditures or expenses from exceeding the actual funding available, and for various other reason. **(Res2017-025)**
2. Resolution appointing Frank Milazi the City Treasurer; and for other purposes. **(Res2017-029)**
3. Adoption of Ordinances (Second Reading)
  - **Ord2017-004** (Granting Permission for GA Power)
  - **Ord2017-005** (Granting Permission for Greystone Power)
  - **Ord2017-006** (Granting Permission for Cable and Video Franchises)
  - **Ord2017-007** (Adopting of Taxation Ordinance)
  - **Ord2017-008** (Adopting of Business and Occupation Taxation Ordinance)
4. Ordinance (First Reading)
  - **Ord2017-009** (Consideration of Adult Beverage Excise Taxation Ordinance)



DIVIDER SHEET

**STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON**

**RESOLUTION NO. 2017-025**

**RESOLUTION TO ADOPT THE FISCAL YEAR 2017 FINAL BUDGET FOR EACH FUND OF THE CITY OF SOUTH FULTON, GEORGIA, APPROPRIATING THE AMOUNTS SHOWN IN EACH FUND AS EXPENDITURES/EXPENSES, ADOPTING THE SEVERAL ITEMS OF REVENUE ANTICIPATIONS, AND PROHIBITING EXPENDITURES OR EXPENSES FROM EXCEEDING THE ACTUAL FUNDING AVAILABLE, AND FOR VARIOUS OTHER REASONS.**

**WHEREAS**, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia and is charged with providing public services to local residents; and

**WHEREAS**, sound governmental operations require a budget in order to plan the financing of services for the residents of the City of South Fulton; and

**WHEREAS**, O.C.G.A. § 36-81-1 requires a balanced budget for the City’s fiscal year, which runs from October 1st to September 30th of each year; and

**WHEREAS**, the Mayor and City Council of the City of South Fulton have reviewed the Final abbreviated FY 2017 budget as presented by the City Manager; and

**WHEREAS**, each of these funds is a balanced budget, so that anticipated revenues and other financial resources for each fund equal the proposed expenditures or expenses; and

**WHEREAS**, the Mayor and City Council wish to adopt this proposal as the Final abbreviated Fiscal Year 2017 Annual Budget, effective from May 1, 2017 through September 30, 2017.

**THEREFORE, IT IS NOW RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA, AS FOLLOWS:**

1. **Adoption of Budget.** That the Final Fiscal Year 2017 Budget, attached hereto and incorporated herein as a part of this Resolution is hereby adopted as the Final Budget for the City of South Fulton, Georgia for the abbreviated Fiscal Year 2017, which begins May 1, 2017 and ends on September 30, 2017.
2. **Appropriation.** That the several items of revenues, other financial resources, and sources of cash shown in the budget for each fund in the amounts shown anticipated are hereby adopted, and that the several amounts shown in the budget

for each fund as proposed expenditures or expenses, and uses of cash are hereby appropriated to the departments named in each fund.

3. **Legal Level of Control.** That the “legal level of control” as defined in O.C.G.A. § 36-81-2 is set at the department level, meaning that the City Manager in her capacity is authorized to move appropriations from one line item to another within a fund, but under no circumstances may expenditures or expenses exceed the amount appropriated for a fund without a further budget amendment approved by the Mayor and City Council.
4. **Expiration of Appropriations.** That all appropriations shall lapse at the end of the fiscal year.
5. **Full Force and Effect.** That this Resolution shall be and remain in full force and effect from and after its date of adoption.
6. **Approval of Execution.** The Mayor is hereby authorized to sign all documents necessary to effectuate this Resolution. The City Clerk is authorized to execute, attest to, and seal any document that may be necessary to effectuate this Resolution, subject to approval as to form by the City Attorney.
7. **Severability.** To the extent, any portion of this Resolution is declared invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.
8. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
9. **Effective Date.** This Resolution shall take effect immediately.

The foregoing Resolution No. \_\_\_\_\_ was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2017. **CITY OF  
SOUTH FULTON, GEORGIA**

\_\_\_\_\_  
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

\_\_\_\_\_

\_\_\_\_\_, CITY CLERK

APPROVED AS TO FORM:

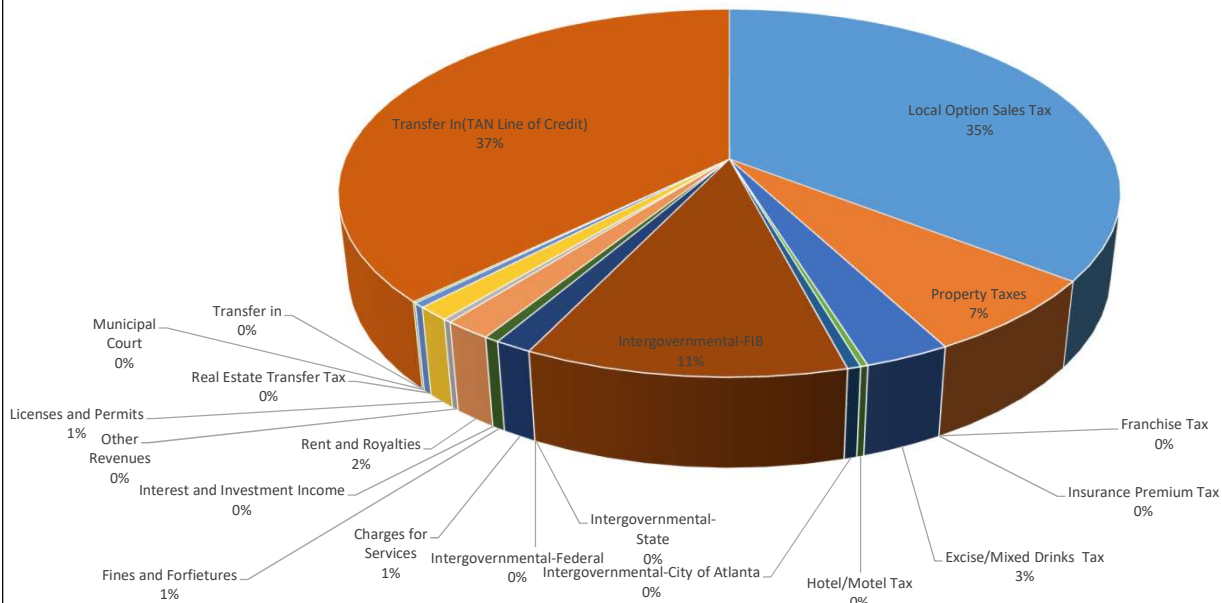
\_\_\_\_\_

\_\_\_\_\_, INTERIM CITY ATTORNEY

CITY OF SOUTH FULTON  
2017 GENERAL FUND PROPOSED BUDGET  
MAY - SEPTEMBER

Proposed FY17 5 month		
Revenues	Budget	Comments
Local Option Sales Tax	\$9,500,000.00	
Property Taxes	\$1,811,633.84	
Franchise Tax		
Insurance Premium Tax	\$0.00	
Excise/Mixed Drinks Tax	\$800,000.00	
Hotel/Motel Tax	\$70,000.00	
Intergovernmental-City of Atlanta	\$125,000.00	
Intergovernmental-FIB	\$3,000,000.00	
Intergovernmental-State	\$0.00	
Intergovernmental-Federal	\$0.00	
Charges for Services	\$347,683.33	
Fines and Forfeitures	\$140,640.00	
Interest and Investment Income	\$0.00	
Rent and Royalties	\$450,000.00	
Other Revenues	\$80,000.00	
Licenses and Permits	\$320,000.00	
Real Estate Transfer Tax	\$108,000.00	
Municipal Court	\$33,651.33	
Transfer in	\$0.00	
Transfer In(TAN Line of Credit)	\$10,000,000.00	
	\$0.00	
<b>Total Revenues</b>	<b>\$26,786,608.50</b>	

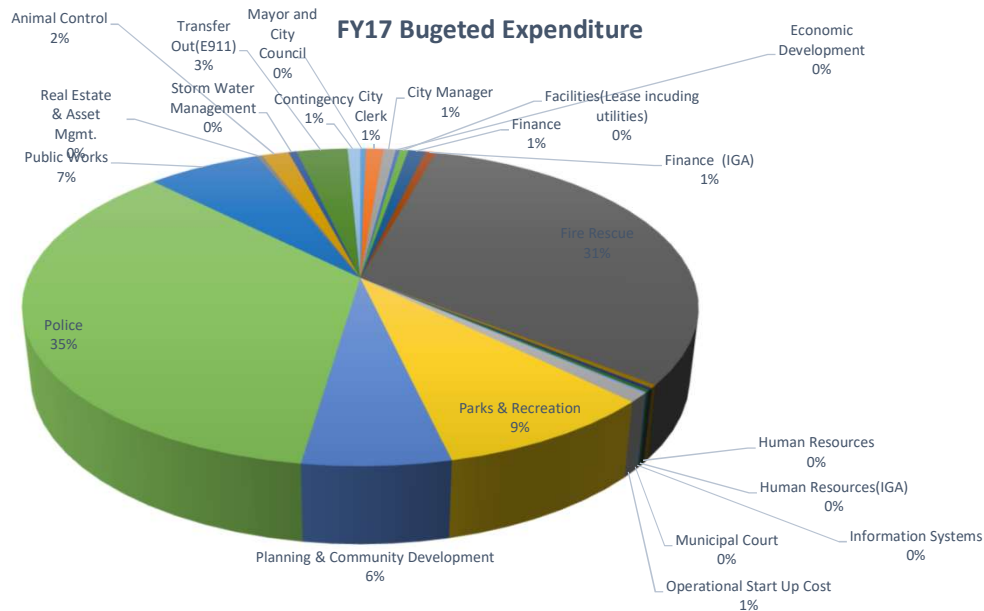
Proposed FY17 5 month Revenues





CITY OF SOUTH FULTON  
2017 GENERAL FUND PROPOSED BUDGET  
MAY - SEPTEMBER

Proposed FY17 5 month		
Expenditures	Budget	Comments
Mayor and City Council	\$87,259.50	
City Clerk	\$267,077.27	
City Manager	\$192,097.17	
County Manager		
Economic Development	\$57,062.70	
Facilities(Lease incuding utilities)	\$131,143.75	IGA
Finance	\$263,346.42	
Finance (IGA)	\$165,000.00	Article 26, Section 26.2
Fire Rescue	\$8,377,533.09	Article 19, Section 19.4
Human Resources	\$85,017.37	
Human Resources(IGA)	\$58,699.52	IGA
Information Systems	\$56,452.88	IGA
Municipal Court	\$33,651.00	
Non Agency*		
Operational Start Up Cost	\$248,000.00	
Parks & Recreation	\$2,400,775.00	Article 25, Section 25.2
Planning & Community Develop	\$1,594,622.00	Article 24, Section 24.2
Police	\$9,436,857.25	Article 12, Section 12.5
Public Works	\$1,742,180.38	IGA
Purchasing		
Real Estate & Asset Mgmt.	\$77,593.65	IGA
Animal Control	\$411,585.25	Article 9, Section 9.2
Storm Water Management	\$125,000.00	Article 28, Section 28.2
Transfer Out(E911)	\$781,250.00	IGA
Contingency	\$194,404.31	
<b>Total Expenditures</b>	<b>\$26,786,608.50</b>	





DIVIDER SHEET

**STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON**

**RESOLUTION NO. 2017-029**

**RESOLUTION APPOINTING FRANK MILAZI THE CITY TREASURER; AND  
FOR OTHER PURPOSES.**

**WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia and is charged with providing public services to local residents; and

**WHEREAS**, Section 4.14 of the City of South Fulton Code of Ordinances requires that the Mayor recommend qualified candidates for the position of City Treasurer and the Mayor has recommended Frank Milazi as a qualified candidate for the position of City Treasurer; and

**WHEREAS**, the City Council has considered the candidate recommended by the Mayor, and has determined that the Mayor's candidate possesses the correct qualifications, experience, skills, and familiarity with the operation of City of South Fulton government for appointment to the position of City Treasurer; and

**WHEREAS**, Section 4.14 of the City of South Fulton Code of Ordinances provides that the City Treasurer shall collect all taxes, licenses, fees and other moneys belonging to the City, enforce all laws of Georgia relating to the collection of delinquent taxes and sale or foreclosure for nonpayment of taxes to the City, and be responsible for the general duties of a treasurer and fiscal officer; and

**WHEREAS**, the City Council finds that the foregoing appointment is necessary and beneficial to its citizens and to the efficient operation of the City.

**THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF SOUTH FULTON, GEORGIA, AS FOLLOWS:**

1. **Appointment.** The City Council hereby approves the nomination of Frank Milazi as the City Treasurer pursuant to the provisions of the City of South Fulton Code of Ordinances Section 4.14.
2. **Compensation** – The City Council approves an annual salary for the City Treasurer of One Hundred and Twenty Thousand Dollars and no cents (\$120,000.00), and such salary shall be independent of any employment benefits the City Clerk receives.
3. **Approval of Execution.** The Mayor is hereby authorized to sign all documents necessary to effectuate this Resolution. The City Clerk is authorized to execute,

attest to, and seal any document that may be necessary to effectuate this Resolution, subject to approval as to form by the City Attorney.

4. **Severability.** To the extent, any portion of this Resolution is declared invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.
5. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
6. **Effective Date.** This Resolution shall take effect immediately.

The foregoing Resolution No. \_\_\_\_\_ was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2017. **CITY OF  
SOUTH FULTON, GEORGIA**

\_\_\_\_\_  
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

\_\_\_\_\_  
MARK MASSEY, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
JOSH BELINFANTE, INTERIM CITY ATTORNEY



# DIVIDER SHEET

**STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON**

**ORDINANCE NO. 2017-004**

**AN ORDINANCE GRANTING PERMISSION AND CONSENT TO GEORGIA POWER COMPANY, A GEORGIA CORPORATION, AND ITS SUCCESSORS, LESSEES, AND ASSIGNS (HEREINAFTER REFERRED TO COLLECTIVELY AS THE "COMPANY") TO OCCUPY THE STREETS AND PUBLIC PLACES OF THE CITY OF SOUTH FULTON, GEORGIA, A MUNICIPALITY AND POLITICAL SUBDIVISION OF THE STATE OF GEORGIA (HEREINAFTER REFERRED TO AS THE "CITY"), IN CONSTRUCTING, MAINTAINING, OPERATING, AND EXTENDING POLES, LINES, CABLES, EQUIPMENT, AND OTHER APPARATUS FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS**, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the "City Charter"), the City of South Fulton incorporated on May 1, 2017;

**WHEREAS**, pursuant to Section 7.16(b) of the City Charter, the City provided notice to Fulton County of its intent to collect any tax, fee, assessment, fine or forfeiture, other monies;

**WHEREAS**, the City considers collecting a franchise fee from an electric power company utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure,

**WHEREAS**, the City of South Fulton City Council finds it in the best interest of the City to adopt and enter into an Electricity Franchise Agreement as set forth herein with Georgia Power Company

**THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS** as follows:

**SECTION I.** Be it ordained by the governing authority of the City that the authority, right, permission, and consent are hereby granted to the Company, for a period of thirty-five (35) years from the date of the Company's acceptance hereof, to occupy and use the streets, alleys, and public places of the City within the present and future corporate limits of the City as from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation, and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections, and other apparatus (hereinafter referred to collectively as the "Company's Facilities") for the business and purpose of transmitting, conveying, conducting, using, supplying, and distributing electricity for light, heat, power, and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets, alleys, and public places from time to time as the Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

**SECTION II.** Be it further ordained that the rights, permission, and consents herein contained are granted for the following considerations and upon the following terms and conditions:

1. The Company shall pay into the treasury of the City (a) on or before the first day of March in each year following the granting of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential and commercial rate schedules (as prescribed by the Georgia Public Service Commission) within the corporate limits of the City during the preceding calendar year and four percent (4%) of the gross sales of electric energy to customers served under industrial rate schedules (as so prescribed) within the corporate limits of the City during the period beginning on the first day of the month following the granting of this franchise and ending on December 31 thereafter and (b) on or before the first day of March of each year thereafter during the term of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules (as so prescribed) within the corporate limits of the City during the preceding calendar year, on condition that in the event the City shall grant to any other entity the right to use and occupy the City's streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof.

2. The amount, if any, of any tax, fee, charge, or imposition of any kind required, demanded, or exacted by the City on any account, other than ad valorem taxes on property, shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section II.

3. The Company shall fully protect, indemnify, and save harmless the City from all damages to persons or property caused by the construction, maintenance, operation, or extension of the Company's Facilities, or conditions of streets, alleys, or public places resulting therefrom, for which the City would otherwise be liable.

4. The Company shall, in constructing, maintaining, operating, and extending the Company's Facilities, submit and be subject to all reasonable exercises of the police power by the City. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the City or for any purpose at the instance of any other entity, private or governmental.

5. For purposes of paragraph 6 of this Section II, the term "Distribution Facilities" means poles, lines, wires, cables, conductors, insulators, transformers, appliances, equipment, connections, and other apparatus installed by or on behalf of the Company (whether before or after the adoption of this ordinance) in the streets, alleys, or public places of the City for the purpose of distributing electricity within



the present and future corporate limits of the City. Distribution Facilities do not include any of the following: (i) electric transmission lines with a design operating voltage of 46 kilovolts or greater (hereinafter referred to as "Transmission Lines"); (ii) poles, towers, frames, or other supporting structures for Transmission Lines (hereinafter referred to as "Transmission Structures"); (iii) Transmission Lines and related wires, cables, conductors, insulators, or other apparatus attached to Transmission Structures; (iv) lines, wires, cables, or conductors installed in concrete-encased ductwork; or (v) network underground facilities.

6. In the event that the City or any other entity acting on behalf of the City requests or demands that the Company relocate any Distribution Facilities from their then-current locations within the streets, alleys, and public places of the City in connection with a public project or improvement, then the Company shall relocate, at its expense, the Distribution Facilities affected by such project or improvement. The Company's obligations under this paragraph 6 shall apply without regard to whether the Company has acquired, or claims to have acquired, an easement or other property right with respect to such Distribution Facilities and shall not affect the amounts paid or to be paid to the City under the provisions of paragraph 1 of this Section II. Notwithstanding the foregoing provisions of this paragraph 6, the Company shall not be obligated to relocate, at its expense, any of the following: (i) Distribution Facilities that are located on private property at the time relocation is requested or demanded; (ii) Distribution Facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; or (iv) Distribution Facilities that are converted from an overhead configuration or installation to an underground configuration or installation.

7. The City and the Company recognize that both parties benefit from economic development within the City. Accordingly, when it is necessary to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) within the City, the City and the Company shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, the City and the Company shall communicate in a timely fashion to coordinate projects included in the City's five-year capital improvement plan, the City's short-term work program, or the City's annual budget in an effort to minimize relocation of the Company's Facilities. Such communication may include, but is not limited to, (i) both parties' participation in the Georgia Utilities Coordinating Council, Inc. (or any successor organization) or a local utilities coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any successor to such system mutually acceptable to both parties).

8. With regard to each streetscape project undertaken by or on behalf of the City, the City shall pay the Company in advance for the Company's estimated cost to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) in connection with such project. For each streetscape project, the Company shall estimate in good faith the amount of incremental base revenue, if any, that the Company will realize as a result of new customer load or expansion of existing customer load attributable to such project; and such estimate shall be based on tariffs in effect at the time that construction of such project begins and shall not include fuel recovery charges, non-electric service billings, or taxes. If such estimate indicates that the Company will realize incremental base revenue, the Company shall do one of the following, whichever results in greater cost savings to the City: (i) reduce the City's advance payment to the Company for relocation costs by ten percent (10%); or (ii) where the City has developed a bona fide marketing plan within twelve (12) months after construction of such project begins, either refund the amount of the Company's incremental base revenue during such twelve-month period to the City or credit such amount against any future payment due from the City to the Company. The City and the Company acknowledge and agree that the amount of any

refund or credit calculated pursuant to clause (ii) of the foregoing sentence of this paragraph 8 shall not exceed the amount of the City's advance payment to the Company for relocation costs associated with such project.

**SECTION III.** Be it further ordained that nothing contained in this ordinance shall limit or restrict the right of customers within the corporate limits of the City to select an electric supplier as may hereafter be provided by law.

**SECTION IV.** Be it further ordained that from time to time after the approval of this ordinance, the Company and the City may enter into such additional agreements as the Company and the City deem reasonable and appropriate; provided, however, that such agreements shall not be inconsistent with the terms and conditions of the franchise granted in this ordinance, shall not extend beyond the term of the franchise, and shall be enforceable separate and apart from the franchise.

**SECTION V.** Be it further ordained that the Company shall, within ninety (90) days from the approval of this ordinance, file the Company's written acceptance of the franchise granted in this ordinance with the Clerk of the City, so as to form a contract between the Company and the City.

**SECTION VI.** Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the Company and the City with respect to the Company's use of the City's streets, alleys, and public places, in actual conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.

The foregoing Ordinance No. \_\_\_\_\_ was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

**The foregoing franchise accepted on**

\_\_\_\_\_, **2017.**

**GEORGIA POWER COMPANY**

**By:** \_\_\_\_\_  
**President**

THIS ORDINANCE adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2017. **CITY OF SOUTH  
FULTON, GEORGIA**

\_\_\_\_\_

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

\_\_\_\_\_

\_\_\_\_\_, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_

\_\_\_\_\_, INTERIM CITY ATTORNEY



# DIVIDER SHEET

**STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON**

**ORDINANCE NO. 2017-005**

**AN ORDINANCE GRANTING PERMISSION AND CONSENT TO GREYSTONE POWER CORPORATION, A GEORGIA NON-PROFIT ELECTRIC MEMBERSHIP CORPORATION, AND ITS SUCCESSORS, LESSEES, AND ASSIGNS (HEREINAFTER REFERRED TO COLLECTIVELY AS THE "COMPANY") TO OCCUPY THE STREETS AND PUBLIC PLACES OF THE CITY OF SOUTH FULTON, A MUNICIPALITY AND POLITICAL SUBDIVISION OF THE STATE OF GEORGIA (HEREINAFTER REFERRED TO AS THE "CITY"), IN CONSTRUCTING, MAINTAINING, OPERATING, AND EXTENDING POLES, LINES, CABLES, EQUIPMENT, AND OTHER APPARATUS FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS**, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the "City Charter"), the City of South Fulton incorporated on May 1, 2017;

**WHEREAS**, pursuant to Section 7.16(b) of the City Charter, the City provided notice to Fulton County of its intent to collect any tax, fee, assessment, fine or forfeiture, other monies;

**WHEREAS**, the City considers collecting a franchise fee from an electric power company utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure,

**WHEREAS**, the City of South Fulton City Council finds it in the best interest of the City to adopt and enter into an Electricity Franchise Agreement as set forth herein with GreyStone Power Corporation

**THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS** as follows:

**SECTION I.** Be it ordained by the governing authority of the City that the authority, right, permission, and consent are hereby granted to the Company, for a period of thirty-five (35) years from the granting of this franchise, to occupy and use the streets, alleys, and public places of the City within the present and future corporate limits of the City as from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation, and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections, and other apparatus (hereinafter referred to collectively as the "Company's Facilities") for use in various businesses and purposes, including transmitting, conveying, conducting, using, supplying, and distributing electricity for light, heat, power, and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets, alleys, and public places from time to time as the Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

**SECTION II.** Be it further ordained that the rights, permission, and consents herein contained are granted for the following considerations and upon the following terms and conditions:

1. The Company shall pay into the treasury of the City on or before the first day of March in each year following the granting of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules within the corporate limits of the City during the preceding calendar year.

2. The amount, if any, of any tax, fee, charge, or imposition of any kind required, demanded, or exacted by the City on any account, other than ad valorem taxes on property, shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section II.

3. The Company shall fully protect, indemnify, and save harmless the City from all damages to persons or property caused by the construction, maintenance, operation, or extension of the Company's Facilities, or conditions of streets, alleys, or public places resulting therefrom, for which the City would otherwise be liable.

4. The Company shall, in constructing, maintaining, operating, and extending the Company's Facilities, submit and be subject to all reasonable exercises of the police power by the City. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the City or for any purpose at the instance of any other entity, private or governmental.

5. For purposes of paragraph 6 of this Section II, the term "Distribution Facilities" means poles, lines, wires, cables, conductors, insulators, transformers, appliances, equipment, connections, and other apparatus installed by or on behalf of the Company (whether before or after

the adoption of this ordinance) in the streets, alleys, or public places of the City for the purpose of distributing electricity within the present and future corporate limits of the City. Distribution Facilities do not include any of the following: (i) electric transmission lines with a design operating voltage of 46 kilovolts or greater (hereinafter referred to as "Transmission Lines"); (ii) poles, towers, frames, or other supporting structures for Transmission Lines (hereinafter referred to as "Transmission Structures"); (iii) Transmission Lines and related wires, cables, conductors, insulators, or other apparatus attached to Transmission Structures; (iv) lines, wires, cables, or conductors installed in concrete-encased ductwork; or (v) network underground facilities.

6. In the event that the City or any other entity acting on behalf of the City requests or demands that the Company relocate any Distribution Facilities from their then-current locations within the streets, alleys, and public places of the City in connection with a public project or improvement, then the Company shall relocate, at its expense, the Distribution Facilities affected by such project or improvement. The Company's obligations under this paragraph 6 shall not affect the amounts paid or to be paid to the City under the provisions of paragraph 1 of this Section II. Notwithstanding the foregoing provisions of this paragraph 6, the Company shall not be obligated to relocate, at its expense, any of the following: (i) Distribution Facilities that are located on private property (which shall include those located on easements acquired by the Company from persons or entities other than the City) at the time relocation is requested or demanded; (ii) Distribution Facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; (iv) Distribution Facilities that are converted from an overhead configuration or installation to an underground configuration or installation; (v) Distribution Facilities that do not obstruct or interfere with the safe use of the City's streets or public places, and that do not obstruct or interfere with plans for road widening, the creation of new turn lanes, or acceleration /deceleration lanes.

7. The City and the Company recognize that both parties benefit from economic development within the City. Accordingly, when it is necessary to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) within the City, the City and the Company shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, the City and the Company shall communicate in a timely fashion to coordinate projects included in the City's five-year capital improvement plan, the City's short-term work program, or the City's annual budget in an effort to minimize relocation of the Company's Facilities. Such communication may include, but is not limited to, (i) both parties' participation in the Georgia Utilities Coordinating Council, Inc. (or any successor organization) or a local utilities coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any successor to such system mutually acceptable to both parties).

8. With regard to each project undertaken by or on behalf of the City for which the Company is not obligated, in accordance with paragraph 6, to pay the cost of relocation, the City shall pay the Company in advance for the Company's estimated cost to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) in connection with such project.



**SECTION III.** Be it further ordained that nothing contained in this ordinance shall limit or restrict the right of customers within the corporate limits of the City to select an electric supplier as may hereafter be provided by law.

**SECTION IV.** Be it further ordained that, notwithstanding anything herein to the contrary, the Company shall not be obligated to pay to the City the fee provided for herein, or any portion thereof, on the gross sales of electric energy to customers living within areas that, on the effective date of this franchise, are not both: (i) within the City limits on the effective date, and (ii) depicted as being within the City limits on the maps provided to Company and attached hereto as Exhibit A.

**SECTION V.** Be it further ordained that, notwithstanding anything herein to the contrary, the Company shall not be obligated to pay to the City the fee provided for herein, or any portion thereof, on the gross sales of electric energy to customers living within areas that, after the effective date of this franchise, are annexed to the corporate limits of the City before ninety (90) days after the Company receives written notice from the City that the City intends to annex (or has already annexed) the territory in which said customers are located. To be effective, any such notice must include an electronic map of the annexed areas in a format reasonably acceptable to Company.

**SECTION VI.** Be it further ordained that all notices under this ordinance shall be made in writing and shall be delivered or sent by (a) first class, registered or certified mail, postage prepaid, return receipt requested; (b) guaranteed overnight delivery (such as Federal Express or United Parcel Service Next Day Air); or (c) hand delivery addressed to the address of the party in question as set forth below or to such other addresses as either party may designate by notice given pursuant to this Section. Notices shall be effective upon receipt by the notified party.

**To the Franchising Authority:**

Mayor of City of South Fulton  
5440 Fulton Industrial Boulevard  
Atlanta, Georgia 30336

City of South Fulton, GA 30213

**To the Grantee:**

GreyStone Power Corporation  
Attn: Office of the President and CEO  
P. O. Box 897  
Douglasville, Georgia 30133-0897

**SECTION VII.** Be it further ordained that the Company shall, within ninety (90) days from the approval of this ordinance, file the Company's written acceptance of the franchise granted

in this ordinance with the Clerk of the City.

**SECTION VIII.** Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the Company and the City with respect to the Company's use of the City's streets, alleys, and public places, in actual conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.

The foregoing Ordinance No. \_\_\_\_\_ was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

**The foregoing franchise accepted on**

\_\_\_\_\_

**GREYSTONE POWER CORPORATION**

**By:** \_\_\_\_\_  
**President / CEO**

THIS ORDINANCE adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2017. **CITY OF SOUTH  
FULTON, GEORGIA**

\_\_\_\_\_

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

\_\_\_\_\_

\_\_\_\_\_, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_

\_\_\_\_\_, INTERIM CITY ATTORNEY

EXHIBIT A  
<MAPS DEPICTING CITY LIMITS>



# DIVIDER SHEET

**STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON**

**ORDINANCE NO. 2017-006**

**AN ORDINANCE TO ESTABLISH COLLECTION OF FRANCHISE FEES  
APPLICABLE TO HOLDERS OF CABLE AND VIDEO FRANCHISES  
ISSUED BY THE STATE OF GEORGIA**

**WHEREAS**, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS**, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the “City Charter”), the City of South Fulton incorporated on May 1, 2017;

**WHEREAS**, pursuant to Section 7.16(b) of the City Charter, the City provided notice to Fulton County of its intent to collect any tax, fee, assessment, fine or forfeiture, and other monies;

**WHEREAS**, the City is authorized to collect a franchise fee of up to five percent (5%) of gross revenues, the maximum amount established by federal and state law, of each cable or video service provider’s gross revenues generated within the City, pursuant to franchises issued by the State of Georgia pursuant to the Consumer Choice for Television Act of 2007, O.C.G.A. § 36-76-1, *et seq.* (the “Act”);

**WHEREAS**, the City considers collecting a franchise fee from a cable or video provider utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure;

**THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS** as follows:

1. The Mayor and City Council do hereby require a franchise fee of five percent (5%) of gross revenues for any cable or video state franchise issued within its corporate boundaries by the State of Georgia pursuant to the Act; and
2. The Mayor or the Mayor's designated representative is hereby authorized to take any and all actions required to be taken by the City pursuant to the provisions of the Act; and
3. The Mayor or the Mayor's designated representative is hereby authorized to collect and receive franchise fees pursuant to the provisions of the Act.

The foregoing Ordinance No. \_\_\_\_\_ was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result was as follows:

AYE	NAY	
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell (Mayor Pro Tem)	_____	_____
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____



THIS ORDINANCE adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2017. **CITY OF SOUTH  
FULTON, GEORGIA**

\_\_\_\_\_  
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, INTERIM CITY ATTORNEY



# DIVIDER SHEET

**STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON**

**ORDINANCE No. 2017-007**

**ADOPTION OF TAXATION ORDINANCE**

**WHEREAS**, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS**, the City Council is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government;

**WHEREAS**, the duly elected governing authority of the City is the Mayor and City Council;

**WHEREAS**, Section 1.12(b)(40) of the City Charter authorizes the City Council to impose ad valorem taxes at a rate of 13.469 unless the City Council and voters of the City approve of a resolution authorizing a greater millage rate;

**WHEREAS**, Section 1.12(b)(41) of the City Charter authorizes the City Council to impose all other taxes that may be allowed by law;

**WHEREAS**, Chapter 5 of Title 48 of the Official Code of Georgia Annotated authorizes municipalities to impose ad valorem taxes on property;

**WHEREAS**, Chapter 8 of Title 33 of the Official Code of Georgia Annotated authorizes municipalities to impose premium taxes of life insurance policies;

**WHEREAS**, Chapter 6 of Title 48 of the Official Code of Georgia Annotated authorizes municipalities to impose business license taxes on depository financial institutions operating within city limits;

**WHEREAS**, the City requires revenue to operate and provide municipal services to City residents;

**THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS**  
as follows:

**Section 1:** The City of South Fulton Code of Ordinances, Title 2, Taxation, is hereby established and enacted as follows:

**Title 2: TAXATION**

**CHAPTER 1. – GENERAL (Reserved).**

**CHAPTER 2. – AD VALOREM TAXES**

**Sec. 2-2001. – Annually Set.**

On or before June 30 of each year, the City Council shall set the millage rate and ad valorem taxes for all real property within the City for ad valorem purposes.

**Sec. 2-2002. – Due Date**

The ad valorem taxes due the City shall become due and payable between July 1 and October 15 of each year, any said taxes not paid in full by the last day specified shall, notwithstanding any existing law, be in default, and shall bear interest and penalties, now or hereafter, as provided by law for taxes which are delinquent or in default, and executions issued therefor, after December 31 of the year in which such taxes become delinquent.

**Sec. 2-2003. – Fines for Delinquent Payment.**

Any person failing to return his real property, for tax purposes, on or before April 1 of each year is assessed a penalty of ten percent of the amount of taxes due the City. Said penalty is in addition to the amount of ad valorem taxes due the City and also in addition to any costs and interest and interest permitted by law. Partial payments shall not be accepted.

**Sec. 2-2004. – Collection of Delinquent Taxes**

(a) The duty to collect by levy and sale, or otherwise, for delinquent taxes is hereby imposed upon the City Treasurer as the City Tax Collector or his designee as issuing officer, and the county sheriff as execution officer. All levies of execution for delinquent taxes are in the name of the City. This duty may be contracted, by the City Council, to a third party.

(b) It is the duty of the City Tax Collector or his designee to comply with all provisions of state law applicable to the provision for issuing, sale and transfer of tax executions and laws governing judicial sales and to:

- (1) Keep a file of all newspapers in which an official advertisement appears;
- (2) Keep an execution docket in which is entered a full description of all executions;
- (3) Maintain a book of all sales;
- (4) Maintain an index to the sales and executions.

(c) The City Tax Collector shall sign all levies, notices, advertisements, and the like in his name for the City.

(d) Execution in the name of the City for delinquent ad valorem taxes are directed and delivered to the county sheriff, who shall enter the execution upon the docket to be kept in his office and he shall proceed to enforce the collection of the execution in the manner prescribed by law.

(e) The City Tax Collector will issue all fieri facias (fi. fas.) for delinquent taxes and the county sheriff shall execute such fi. fas. Under the same procedures provided by law

governing execution of such process from the superior court, or by the use of any other available legal process and remedies.

### **Sec. 2-2005. – Assessment of Property**

(a) The Fulton County Board of Tax Assessors is hereby designated to have the responsibility for assessment and valuation of property within the City limits. The City Council shall adopt the assessment and valuations made by the Fulton County Board of Tax Assessors for all property located within the City limits as may be established from year to year by the Fulton County Board of Tax Assessors.

(b) The City Council does authorize the Tax Commissioner of Fulton County to make such adjustments in the collection of individual items of tax, and to make such refunds as may be proper and necessary, by addition to or deducting from the distribution due the City at the next period of accounting, along with stated explanation of the correction.

## **CHAPTER 3 – HOTEL AND MOTEL TAXES**

### **Sec. 2-3001. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Guestroom* means a room, lodging, or accommodation occupied or intended for occupancy by one or more occupants but does not mean a meeting room that is intended, designed, or used for meetings.

(b) *Hotel* means a structure or any portion of a structure, including, but not limited to, rooming or lodging houses, inns, motels, motor hotels and courts, hotels, cabins, public or private clubs, and tourist camps, which contain guestrooms which are regularly furnished for value to the public.

(c) *Occupancy* means the use or possession or the right to the use or possession of any guestroom in a hotel or the right to the use or possession of the furnishing of services or accommodations that accompany the use or possession of a guestroom in a hotel.

(d) *Occupant* means any person who, for a consideration, uses or possesses or has the right to use or possess a guestroom in a hotel under any lease, concession, contract, permit, right of access, license, or other agreement.

(e) *Operator* means any person operating a hotel in the city, including the owner, proprietor, lessee, sublessee, licensee, or other entity operating the premises.

(f) *Rent* means the consideration received for the occupancy of a guestroom in a hotel whether received in money, property, services, or credits.

(g) *Tax* means the tax imposed by this chapter.

### **Sec. 2-3002. - Tax imposed; exceptions.**

(a) Pursuant to O.C.G.A. § 48-13-51(a)(5), there is imposed, assessed, and levied, and there is paid an excise tax of seven percent (7%) of the rent for every occupancy of a guestroom in a hotel in the city. The tax is paid on any occupancy after July 1, 2017, within the city limits.

(b) The tax imposed by this chapter shall not apply to charges or transactions excluded or exempted from the tax by state law.

(c) Operators collecting the hotel-motel tax imposed by this chapter shall be allowed a reimbursement, in the form of a deduction, for collecting, submitting, reporting, and paying the amount due. The rate of the deduction shall be three percent of the amount due, but only if the amount due is not delinquent at the time of payment.

**Sec. 2-3003. - Operator registration; certificate of authority.**

(a) Every person engaged in or about to engage in the operating as an operator of a hotel in the city shall register at city hall on a form provided by the city. The failure to register shall not relieve any person from the obligation of payment or collection of the tax.

(b) The registration shall set forth the name under which the person transacts business or intends to transact business, the location of his place or places or business, and other information that would facilitate the collection of the tax as the city may require. The registration is signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or a partner; in the case of ownership by a corporation, by an executive officer or some person specifically authorized by the corporation to sign the registration.

(c) The city shall, after the registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration is required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable and is prominently displayed therein so as to be seen and to come readily to the notice of all occupants and persons seeking occupancy.

(d) The certificates are nonassignable and nontransferable and are returned immediately to the city manager or his or her designee, upon the cessation of business at the location named or upon the sale or transfer of the business at that location.

**Sec. 2-3004. - Delinquent penalty.**

Any operator who fails to pay the tax to the city on or before the due date shall pay a penalty of ten percent of the tax not paid plus interest on the unpaid tax at the rate of one percent per month.

**Sec. 2-3005. - Enforcement and administration.**

(a) The City Finance Officer, acting as the City Tax Collector, shall administer and enforce the provisions of this chapter.

(b) The City Tax Collector, in conjunction with the City Manager, shall have the power and authority to make reasonable rules and regulations not inconsistent with this chapter or other laws or ordinances for the administration and enforcement of the provisions of the article and the collection of the tax.

(c) Every operator renting guestrooms in a hotel in the city shall keep such records, receipts, invoices, and other pertinent papers in such form as the city manager or his designee, may require.

(d) The City Tax Collector or any person authorized in writing by the City Manager may examine the books, papers, records, financial reports, and facilities of any operator renting guestrooms and any operator liable for the tax in order to verify the accuracy of and return made or to ascertain and determine the amount of tax which should be paid.

(e) In administering this chapter, the City Tax Collector may require the filing by operators of reports relating to the rental of guestrooms.

(f) If the City Tax Collector is not satisfied with the return of the tax or the amount of the tax required to be paid to the City by any person under this article, the City Treasurer may compute and determine the amount required to be paid upon the basis of any information within the City Treasurer's possession or that may come into the City Treasurer's possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(1) The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or any fraction of a month from the 20th day after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

(2) In making a determination, the City Treasurer may offset overpayments for a period against underpayments for another period against penalties and against the interest on underpayments.

(3) Penalties.

(A) If any part of the deficiency for which a deficiency determination has been made is due to negligence or disregard of rules and regulations, a penalty of 15 percent of the amount of the deficiency shall be added thereto.

(B) If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade any section of this article or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto.

(4) Notice.

(A) The City Treasurer or his or her designee shall give to the operator written notice of the City Treasurer's determination.

(B) The notice may be served personally or by mail; if by mail the service shall be addressed to the operator at the operator's address as it appears in the records of the City Treasurer. For service by mail of any notice required by this article, the service is complete at the time of deposit in the United States post office.

(5) Limitations. Time limit for mailing notice of deficiency determination. Except for fraud, intent to evade this article or authorized rules or regulations or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should last expire.

### **Sec. 2-3006. - Penalties.**

Any operator or person who violates any provision of this chapter shall be guilty of a misdemeanor.

### **Section 2-3007. – Exceptions.**

No tax pursuant to this chapter shall be imposed upon the following:

- (a) Permanent residents.
- (b) Georgia state or local government officials or employees while traveling on official business and using guest rooms furnished for a period of one or more days.
- (c) Persons who certify they are staying in a guest room as a result of the destruction of their home or residence by fire or other casualty.
- (d) Persons using meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge.

## **CHAPTER 4 – RENTAL MOTOR VEHICLE EXCISE TAX (Reserved)**

### **Sec. 2-4001. – Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Rental charge* means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales taxes.



(b) *Rental motor vehicle* means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver regardless of whether such vehicle is licensed in this state.

(c) *Rental motor vehicle concern* means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

#### **Sec. 2-4002. – Authority and Administration.**

(a) The Finance Officer shall administer and enforce this chapter for the levy and collection of the tax.

(b) Rules and regulations. The Finance Officer shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this chapter, or other laws of the City and the State of Georgia, or the Constitution of the State of Georgia or the United States for the administration and enforcement of this article and the collection of the tax under this chapter.

(c) Records required. Every rental motor vehicle concern subject to this article shall keep such records, receipts, invoices and other pertinent papers in such form as the Finance Officer may require. Such records shall include, but not be limited to, rental charges for rental motor vehicles and taxes collected which are related thereto. Said record is open for inspection and copying by the city manager, or his designee, during business hours.

#### **Sec. 2-4003. – Excise Tax Levied; Exceptions.**

(a) There is hereby assessed and levied an excise tax upon each rental charge collected by any rental motor vehicle concern when such charge constitutes a taxable event for the purposes of the sales and use tax as provided for under O.C.G.A. title 48, ch. 8, art. 1 (O.C.G.A. § 48-8-1 et seq.), on any motor vehicle rental charge made in the city. The tax levied pursuant to this article is in the amount of three percent of the rental charge.

(b) The Council declares that the proceeds received from the excise tax levied by this chapter are to be expedited for use in public safety facilities, including pedestrian sidewalks, installation of traffic lights, street lighting for public safety purposes, and for the maintenance of such systems of traffic lights and streetlights within the territorial city limits. Proceeds received from the excise tax imposed by this chapter may also be used for promoting industry, trade, commerce, and tourism; for the provision of convention, trade, sports, and recreational facilities.

(c) The excise tax imposed by this chapter shall not apply to the rental charge associated with the rental or lease of a rental motor vehicle if either:

(1) The customer picks up the rental motor vehicle outside the State of Georgia and returns it within the State of Georgia; or

(2) The customer picks up the rental motor vehicle in the State of Georgia and returns it outside the State of Georgia.

#### **Sec. 2-4004. – Collection Fees.**

Each person collecting the excise tax authorized by this chapter shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if the amount due is not delinquent at the time of payment. The rate of deduction shall be 3 percent of the amount due but only if the amount due was not delinquent at the time of payment.

#### **Sec. 2-4005. – Statements Required.**

(a) On or before the 20th day of each month, the motor vehicle concern liable for the tax provided for herein shall transmit to the city a statement showing the gross rental charges and gross taxes collected authority of this article for each preceding calendar month. Along with said statement, the motor vehicle concern shall submit the net taxes due for each particular month.

(b) Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a penalty of five percent of the tax then due and in addition to such penalty, interest thereon the unpaid principal amount due, computed at the rate of one percent per month.

#### **Sec. 2-4006. – Deficiency Determinations.**

(a) Determination. If it appears that a return for excise tax or the amount of tax remitted is inaccurate or incomplete, the City Treasurer or his or her designee may compute and determine the amount required to be paid based on any information within his possession or that may come into his possession. One deficiency determination may be made for the amount due for one or more monthly periods.

(b) Interest. The amount of the determination made by the City Treasurer or his or her designee shall bear interest the rate of one percent per month or fraction thereof from the due date of the taxes found due by him or her.

(c) Notice.

(1) The City Treasurer or his or her designee shall give to the rental vehicle concern a written notice of any such determination. The notice may be made personally or by mail and if by mail the service is addressed to the operator or the of the rental motor vehicle concern at the address as the same appears in the records of the city manager or designee as provided to him by each rental motor vehicle concern.

(2) Service is complete when delivered by certified mail with a receipt signed by an addressee or agent addressee.

(d) Limitations. Except in cases of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the period in which the amount proposed to be determined or within three years after the return was filed, whichever period shall expire last.

## **Sec. 2-4007. - Withholding Tax on Sale of Business.**

(a) If any rental motor vehicle concern liable for any amount under this chapter transfers or sells its business or quits the business, its successors or assigns shall withhold sufficient amounts from the purchase price to cover the amount required to be paid pursuant to this article until the former owner or operator of the rental motor vehicle concern produces a receipt from the city manager or designee showing that the indebtedness has been paid or a certificate stating that no amount is due.

(b) If the purchaser of a business or rental motor vehicle concern fails to withhold from the purchase price as required herein such purchaser is personally liable for the payment of the amount of the outstanding tax required to be withheld by him to the extent of such purchase price.

## **Sec. 2-4008. - Penalty; expiration of tax.**

(a) In addition to the interest charges and delinquent penalties specified in this article any person violating any provision of this article shall be deemed guilty of a violation of this Code, which shall be punishable as a misdemeanor.

(b) The tax levied by this article is effective on January 1, 2006, and shall continue until its permissible existence shall expire as provided by law.

## **CHAPTER 5 – BUSINESS AND OCCUPATION TAXES (Reserved)**

## **CHAPTER 6 - INSURANCE PREMIUM TAXES**

### **Sec. 2-6001. - Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Gross direct premiums* means gross direct premiums as used in O.C.G.A. § 33-8-4.

(b) *Insurer* means a company that is authorized to transact business in any classes of insurance designated in O.C.G.A. § 33-3-5.

### **Sec. 2-6002. – Insurers License Fees**

There is hereby levied for the year 2017 and for each year thereafter an annual license fee upon each insurer doing business within the City of South Fulton, Georgia in the amount of one hundred and fifty dollars (\$150.00). For each separate business location in excess of one not covered by Section 2, which is operating on behalf of such insurers within the City of South Fulton, Georgia, there is hereby levied a license fee in the amount of one hundred and fifty dollars (\$150.00).

### **Sec. 2-6003. - License Fees for Insurers Insuring Certain Risks at Additional Business Locations**

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee in the maximum amount permitted pursuant to O.C.G.A. § 33-8-8(b)(2) on each insurance company.

#### **Sec. 2-6004. – Gross Premiums Tax Imposed on Life Insurers**

There is hereby levied for the year 2017 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to one percent (1%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 1 of this ordinance.

#### **Sec. 2-6005. – Gross Premiums Tax, All Other Insurers**

There is hereby levied for the year 2017 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. § 33-3-5, doing business within the State of Georgia in an amount equal to two and one-half percent (2.5%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in the section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 2-3002 of this Code of Ordinances.

#### **Sec. 2-6006. – Due Date for License Fees**

License fees imposed in Sections 2-3002 and 2-3003 of this Code of Ordinances shall be due and payable on the first day of January and on the first date of each subsequent year.

#### **Section 2-6007. – Administrative Provisions**

The City Clerk is hereby directed to forward a duly certified copy of this ordinance to the Insurance Commissioner of the State of Georgia within 45 days of its enactment.

### **CHAPTER 7 – FINANCIAL INSTITUTION TAXES**

#### **Sec. 2-7001. – Definitions**

The definitions in O.C.G.A. §§ 48-6-90 and 48-6-93 apply to this chapter.

#### **Sec. 2-7002. – Tax Levied; Rate.**

In accordance with O.C.G.A. § 48-6-93, there is hereby levied an annual business license tax upon all depository financial institutions located within the City at a rate of 0.25 percent of the gross receipts of said depository financial institutions.

**Sec. 2-7003. – Minimum Business License Tax.**

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-93(a) is \$1,000.00.

**Sec. 2-7004. – Due Date of Taxes.**

Taxes levied pursuant to this article are paid to the city manager or designee at the time of filing the return.

**Sec. 2-7005. – Relation of Tax To Other Business Licenses.**

The tax imposed by this article is in lieu of any other business license upon depository financial institutions.

\*\*\*\*\*

**Section 2: Severability**

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of South Fulton, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

**Section 3: Repealer**

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 4: Effective Date**

Unless specifically specified elsewhere in this Ordinance, the effective date of this Ordinance shall be June 20, 2017.



The foregoing Resolution No. \_\_\_\_\_ was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell,	_____	_____
Mayor Pro Tem		
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2017. **CITY OF SOUTH FULTON, GEORGIA**

\_\_\_\_\_  
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, INTERIM CITY ATTORNEY





# DIVIDER SHEET

**STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON**

**ORDINANCE No. 2017-008**

**ADOPTION OF BUSINESS AND OCCUPATION TAXATION ORDINANCE**

**WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS**, the City Council is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government;

**WHEREAS**, the duly elected governing authority of the City is the Mayor and City Council;

**WHEREAS**, Section 1.12(b)(41) of the City Charter authorizes the City Council to impose all other taxes that may be allowed by law;

**WHEREAS**, Chapter 13 of Title 48 of the Official Code of Georgia Annotated authorizes municipalities to impose business occupation taxes and fees;

**WHEREAS**, the City requires revenue to operate and provide municipal services to City residents;

**THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS**  
as follows:

**CHAPTER 5 – BUSINESS AND OCCUPATION TAXES (Reserved)**

**Sec. 2-5001. – Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Administrative fee* means a component of an occupation tax that approximates the reasonable cost of handling and processing the occupation tax. Employee means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form W-2, but not a form I.R.S. 1099. An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business that recruits such individual is an

employee of the business or practitioner that issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

(b) *Gross receipts.*

(1) The term “*gross receipts*” means total revenue of the business or practitioner for the period, including, without being limited to, the following:

(A) Total income without deduction for the cost of goods sold or expenses incurred;

(B) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;

(C) Proceeds from commissions on the sale of property, goods, or services;

(D) Proceeds from fees charged for services rendered; and

(E) Proceeds from rent, interest, royalty, or dividend income.

(2) The term “*gross receipts*” shall not include the following:

(A) Sales, use, or excise taxes;

(B) Sales returns, allowances, and discounts;

(C) Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations, as defined by 26 USC 1563(a)(1), between or among the units of a brother-sister controlled group of corporations, as defined by 26 USC 1563(a)(2), between or among a parent corporation, wholly owned subsidiaries of such parent corporation, and any corporation in which such parent corporation or one or more of its wholly owned subsidiaries owns stock possessing at least 30 percent of the total value of shares of all classes of stock of such partially owned corporation, or between or among wholly owned partnerships or other wholly owned entities;

(D) Payments made to a subcontractor or an independent agent for services that contributed to the gross receipts in issue;

(E) Governmental and foundation grants, charitable contributions or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners

otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts; and

(F) Proceeds from sales of goods or services that are delivered to or received by customers who are outside the state at the time of delivery or receipt.

(c) *License* means a permit or certificate issued by the city that allows an entity to operate lawfully in the city. A license does not create any rights to operate in violation of any provision of this Code, and it may be revoked by the city council at any time. This definition applies to any license issued pursuant to this chapter.

(d) *Location or office* includes any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location that is the site of personal property that is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

(e) *Occupation tax* means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business.

(f) *Practitioner of professions and occupants* shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

(g) *Regulatory fees* means payments, whether designated as license fees, permit fees, or by another name, which are required by city as an exercise of its municipal power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee does not include an administrative or registration fee.. Regulatory fees do not include development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development.

## **Sec. 2-5002. – Occupation Certificate Required**

(a) All persons, firms, companies, or corporations, including limited liability companies and professional corporations, now or hereafter operating a business in the city, are hereby required to register their business or office, obtain an occupation

tax certificate for their business or office, and pay the amount now or hereafter fixed as taxes and fees thereon. The owners of multifamily rental dwellings or multifamily rental units within the City that receive income for use of four or more such dwellings or units and meet the requirements of O.C.G.A. § 48-13-5 for having a location or office within the City are subject to an occupation tax as provided in this chapter. For the initial year of construction, this section shall not apply to new construction or rehabilitation of a multifamily rental dwelling provided proper permits are obtained from the city.

(b) The occupation tax certificate shall serve as a business license. Additional business licenses may be required as established in this chapter.

(c) Stock or manufacturing companies or other companies, subsidiaries, agencies, district offices, branch offices, corporations or individuals, having either their business proper or their general branch offices located within the city, and either represented by the officers of the company, or any agent, for the purpose of soliciting patronage for the same, or for the transaction of any business pertaining thereto, is required to obtain an occupation tax certificate.

(d) All licenses granted under this article shall expire on April 1 of each year. Licensees are required to make a new application in each year. Such application is treated as an initial application and the applicant is required to comply with all rules and regulations for the granting of licenses as if no previous license had been held.

#### **Sec. 2-5003. – Fee, Basis.**

(a) Except as otherwise provided in this article, every business and practitioner subject to this article shall pay a tax based on the gross receipts of such business (the “occupation tax”).

(b) The gross receipts tax shall include a flat rate of \$50.00 for the first \$20,000.00 of gross revenue, and \$13.00 per employee. Gross revenues above \$20,000.00 are taxed using a fee class table based on profitability. The fee class table ranges from \$0.50 to \$2.20 per \$1,000.00 of gross revenue based on the NAICS Code of the business.

#### **Sec. 2-5004. – Application for Certificate**

(a) It shall be the duty of each person, firm or corporation subject to this article to file with the department of finance on or before March 31 of each calendar year an application for registration under this article setting forth all activities of each business, its Standard Industrial Classification Code and/or its North American Industry Classification System Code, its estimated gross receipts for the calendar year of the registration, computation of the amount of tax due including the administrative fee and per employee tax, a copy of the profit and loss statement, a copy of its Georgia Income Tax Return, and such other information as may be required by the director of finance to properly administer this chapter, which may include all or any of the

information specified in this chapter. Any new business or practitioner shall apply and register for a new certificate within 30 days after the commencement of business.

(b) For businesses or practitioners with more than one type of service or product, including businesses or practitioners listed under and subject to O.C.G.A. § 48-13-16, the entire gross receipts shall be classified according to the dominant service or product based upon the information provided under subsection (a) hereof.

(c) For each business or practitioner with a location or office situated in more than one jurisdiction, including businesses or practitioners with one or more locations or offices in Georgia and one or more locations outside the state, the City shall allocate the gross receipts as follows for occupation tax purposes in accordance with the following:

(1) Where the business or practitioner can reasonably allocate the dollar amount of gross receipts of the business or practitioner to one or more of the locations or offices on the basis of product manufactured in that location or office or the sales or other services provided in that location or office, the county shall tax the gross receipts generated by the location or office within the City; or

(2) Where the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the business or practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the business or practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the business or practitioner to each location or office.

(3) In no instance shall the sum of the portions of the total gross receipts of a business or practitioner taxed by all local governments exceed 100 percent of the total gross receipts of the business or practitioner.

(4) In the event of a dispute between the business or practitioner and the county as to the allocation under this section, the business or practitioner shall have the burden of proof as to the reasonableness of the allocation.

(5) Upon request, businesses or practitioners with a location or office situated in more than one jurisdiction shall provide to the City the following:

(A) Financial information necessary to allocate the gross receipts of the business or practitioner; and

(B) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.

(6) When the City levies an occupation tax on a business or practitioner which has locations encompassed by other jurisdictions and the other jurisdictions use

different criteria for taxation, the county shall not tax any greater proportion of the gross receipts than authorized by law.

(d) This chapter applies to each business and practitioner with no location or office within the State of Georgia, which:

(1) Has one or more employees or agents who exert substantial efforts within the unincorporated part of the county for the purpose of soliciting business or serving customers or clients; or

(2) Owns personal or real property which generates income and which is located in the unincorporated part of the county. Gross receipts of such business or practitioner for purposes of this section shall include only those gross receipts reasonably attributable to sales or services in the State of Georgia. If such business or practitioner provides to the director of finance proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in the State of Georgia, the business or practitioner shall be exempt from this article.

(e) Real estate brokers transacting business within the unincorporated area of the county are subject to this article. Real estate brokers shall be liable for tax only on gross receipts arising from transactions involving real estate located within the City. Real estate brokers shall be liable for such taxes without regard to their having a location or office in the county.

(f) The provisions of this section may be amended from time to time by resolution of the board of commissioners for the purpose of providing for exceptions to business and occupation taxes as provided under O.C.G.A. § 48-13-10(f).

#### **Sec. 2-5006. – Payment of Fees, Penalties, Refunds.**

(a) Following the filing of the application as provided for in Section 2-5005 of this chapter, each business or professional practitioner subject to this article shall remit payment in full for all taxes and fees due not later than March 31 of the year in which the application is filed. Each person, firm or corporation operating under various trade names must secure a separate occupation tax certificate for each trade name issued. In addition, a separate occupation tax certificate must be secured for each business location. If the business or practice was not in operation on January 1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business pursuant to section 18-38.

(1) The Finance Officer or his designee shall assess penalties in the amount of the percent of the amount owed for each calendar year or portion thereof for:

(A) Failure to pay occupation taxes and administrative fees when due;

(B) Failure to file an application by March 31 of any calendar year, when the business or practitioner was in operation on January 1 or such calendar year; and/or

(C) Failure to register and obtain an occupation tax certificate within 30 days of the commencement of a new business.

(2) Delinquent taxes and fees are subject to interest at a rate of one and one-half percent per month. Payments required by this chapter may be collected in any suit at law or in equity, or the City may cause executions to issue against the person, firm or corporation liable for the payment. Executions may be levied and sold together with all costs thereof, by the City Finance Officer.

(3) Any person whose duty it is to register any business or practice and obtain any occupation tax certificate required under this article and falls to do so, or who fails to pay the occupation tax or administrative fee required by this chapter, or who makes any deliberate or substantial and material false statement on an application or provides materially false information in support of an application, shall be denied an occupation tax certificate, shall be required to surrender any existing such occupation tax certificate and shall be deemed to have no such occupation tax certificate for purposes hereof, and shall be subject to a civil fine as provided by the law of this state.

- (b) Certificate applicants for trade names and for separate business locations shall pay the nonrefundable administrative fee imposed hereby, in addition to the tax imposed by Section 2-5003 of this chapter. In the event a business ceases to operate after the issuance of an occupation tax certificate, no refund of the fee or tax shall be granted.
- (c) No business or practitioner subject to this article shall collect any gross receipts as defined herein unless such business or practitioner shall have applied for an occupation tax certificate and/or license as required hereunder. Upon application for an occupation tax certificate, any such business or practitioner may thereupon collect gross receipts, including those incurred but not collected during the period prior to the application, but such business or practitioner shall be subject to the penalties of subsection (a) of this section. If the taxes and fees remain unpaid after the due date, the business or practitioner shall not collect any gross receipts as defined herein. The provisions of this ordinance may be enforced by appropriate injunctive or other relief upon the application of the Finance Officer to the Superior Court of Fulton County.
- (d) Practitioners of law may collect gross receipts as defined herein without applying for and obtaining an occupation tax certificate. However, practitioners of law must pay the occupation tax levied herein. Delinquent taxes and fees are subject to interest at a rate of one and one-half percent per month. Any occupation tax with its associated administrative fees hereunder, shall be due and payable by March 31 of each calendar year. If the business or practice was not in operation on January



1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business pursuant to this ordinance. The Finance Officer shall assess a penalty in the amount of ten percent of the amount owed for each calendar year or portion thereof for failure to pay occupation taxes and administrative fees when due. In the event of failure to pay the occupation tax required by this chapter, the tax may be collected in any suit at law or in equity. In addition, failure to pay the occupation tax required by this article shall subject the person, firm or corporation to a civil fine as provided by the law of this state.

- (e) Except as provided in subsection (b), the refund of the occupation tax levied herein is governed by O.C.G.A. § 48-5-380.

**Sec. 2-5007. - Termination of business.**

It shall be the duty of each business and practitioner subject to fees and occupation taxes under this chapter, when it shall cease to do business or practice, to return its current occupation tax certificate, together with a statement as to the date of termination of doing business or practice, to the Finance Officer.

**Sec. 2-5008. – Professional occupation tax.**

(a) Notwithstanding any other provision of this chapter, there is hereby imposed upon practitioners of law, medicine, osteopathy, chiropractic, podiatry, dentistry, optometry, applied psychology, veterinary, landscape architecture, land surveying, massage therapy and physiotherapy, public accounting, embalming, funeral directing, civil, mechanical, hydraulic and electrical engineering, architecture, marriage and family therapists, social workers, and professional counselors, as their entire occupation tax one of the following, at the practitioner's election:

(1) The occupation tax based on gross receipts resulting from application of the other provisions of this chapter; or

(2) \$400.00 each year, but a practitioner paying accordingly shall not be required to provide information relating to the gross receipts of such practitioner. For the purposes of this section, a "practitioner" shall include any individual holding license to practice any of the professions specified herein regardless of whether such individual shall practice as a professional corporation or professional association.

(b) In addition to any other documentation that may be requested or required by the City Finance Officer, an practitioner electing to make a payment pursuant to subsection (a)(2) of this ordinance may be required to demonstrate proof of licensure, if applicable.

**Sec. 2-5009. - Transfer; suspension; revocation.**

(a) No certificate issued hereunder may be transferred.

(b) Each certificate granted hereunder shall be subject to suspension or revocation for violation of any rule or regulation of the county now in force or hereafter adopted.

(c) Whenever the director of City Finance Officer there is cause to suspend or revoke the occupation tax certificate issued hereunder:

(1) The Finance Officer must give the certificate holder ten-day written notice of intention to suspend or revoke the occupation tax certificate. The ten-day written notice must include the time, place, and purpose of such hearing, and a statement of the charges upon which such hearing shall be held.

(2) A hearing will be scheduled wherein the certificate holder may present a defense to the suspension or revocation before the City Council or its designee. After the hearing, the City Council or its designee may suspend, sanction, or revoke the occupation tax certificate issued hereunder if any of the grounds set forth below exist. An occupation tax certificate may be suspended, sanctioned, or revoked upon one or more of the following grounds:

(A) The certificate holder is guilty of fraud in the operation of the business or occupation he/she practices, or fraud or deceit in being licensed to practice in that area;

(B) The certificate holder is engaged in the business or occupation under a false or assumed name, or is impersonating another practitioner of a like or different name;

(C) The certificate holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent he/she is unable to perform his or her duties under the business or occupation;

(D) The certificate holder is guilty of fraudulent, false, misleading, or deceptive advertising or practices;

(E) The certificate holder has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in Title 16, Chapter

6 of the Official Code of Georgia Annotated, or to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, for a period of five years immediately prior to the filing of the application. If after having been granted a certificate, the applicant is found not to be of good moral character, or pleads guilty or enters a plea of nolo contendere to any of the above offenses, said certificate shall be subject to suspension and/or revocation;

(F) The original application or renewal thereof contains materially false information, or the applicant has deliberately sought to falsify information contained therein;

(G) The establishment is a threat or nuisance to public health, safety or welfare; or

(H) Any other violation of this article.

(3) After the Finance Director makes a recommendation to the City Council to suspend or revoke an occupation tax certificate issued hereunder, the City Council or its designee shall conduct a hearing to hear evidence relevant to the alleged violation.

(A) At the hearing, the Finance Director or his designee first and presents all evidence and argument in support of the recommendation to suspend or revoke the occupation tax certificate issued hereunder. The Finance Director may be represented by the City Attorney or his or her designee. The certificate holder may be represented by counsel.

(B) After the Finance Director makes his/her presentation, the certificate holder or the certificate holder's legal counsel, will present evidence and argument as to why the occupation tax certificate issued hereunder should not be suspended, sanctioned or revoked.

(C) City Council members will have the right to ask questions at any time during the hearing. If the City Council designates the City Court to hear the matter, the rules of procedure applicable to magistrate courts shall apply.

(D) After hearing all of the evidence and arguments of the parties, the City Council or its designee shall render a decision. The suspension, sanction, or revocation decision is final unless the

certificate holder files a petition for writ of certiorari to the Superior Court of Fulton County within 30 days of the date of the decision.

**Sec. 2-5010. - Display of Occupation Tax Certificate; Penalties.**

The certificate holder is required to display the occupation tax certificate issued hereunder in a conspicuous location. Failure to display the occupation tax certificate in a conspicuous location may result in a fine of \$100.00. This section does not apply to practitioners of law.

**Sec. 2-5011. - Proration of fee.**

When any person or business commences business on or after July 1 in any year, the occupation tax authorized hereby shall be levied at the customary rate on the gross receipts of the business or practitioner from the commencement of the business, but the attendant administrative fee shall not be reduced.

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**Section 2: Severability**

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of South Fulton, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

**Section 3: Repealer**

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 4: Effective Date**

Unless specifically specified elsewhere in this Ordinance, the effective date of this Ordinance shall be June 27, 2017.

The foregoing Resolution No. \_\_\_\_\_ was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result was as follows:

	AYE	NAY
William “Bill” Edwards, Mayor	_____	_____
Catherine Foster Rowell,	_____	_____
Mayor Pro Tem		
Carmalitha Lizandra Gumbs	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Rosie Jackson	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS RESOLUTION adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2017. **CITY OF  
SOUTH FULTON, GEORGIA**

\_\_\_\_\_  
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, INTERIM CITY ATTORNEY



# DIVIDER SHEET